

Union Calendar No. 328

105TH CONGRESS
2^D SESSION

H. R. 3853

[Report No. 105–584]

To promote drug-free workplace programs.

IN THE HOUSE OF REPRESENTATIVES

MAY 13, 1998

Mr. PORTMAN (for himself, Mr. BISHOP, and Mr. SOUDER) introduced the following bill; which was referred to the Committee on Small Business

JUNE 18, 1998

Additional sponsors: Mr. GINGRICH, Mr. HASTERT, Mr. MCCOLLUM, Mr. BARTON of Texas, Ms. GRANGER, Mr. MICA, Mrs. MYRICK, Mr. PAPPAS, and Mr. PETERSON of Pennsylvania

JUNE 18, 1998

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on May 13, 1998]

A BILL

To promote drug-free workplace programs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Drug-Free Workplace*
3 *Act of 1998”.*

4 **SEC. 2. FINDINGS; PURPOSES.**

5 (a) *FINDINGS.*—*Congress finds that—*

6 (1) *74 percent of adults who use illegal drugs are*
7 *employed;*

8 (2) *small business concerns employ over 50 per-*
9 *cent of the Nation’s workforce;*

10 (3) *in over 88 percent of families with children*
11 *under the age of 18, at least 1 parent is employed;*
12 *and*

13 (4) *employees who use and abuse addictive sub-*
14 *stances increase costs for businesses and risk the*
15 *health and safety of all employees because—*

16 (A) *absenteeism is 66 percent higher*
17 *among drug users than nondrug users;*

18 (B) *health benefit utilization is 300*
19 *percent higher among drug users than*
20 *nondrug users;*

21 (C) *47 percent of workplace accidents*
22 *are drug-related;*

23 (D) *disciplinary actions are 90 percent*
24 *higher among drug users than nondrug*
25 *users; and*

1 (E) employee turnover is significantly
2 higher among drug users than nondrug
3 users.

4 (b) *PURPOSES.*—The purposes of this Act are to—

5 (1) educate small business concerns about the ad-
6 vantages of a drug-free workplace;

7 (2) provide financial incentives and technical as-
8 sistance to enable small business concerns to create a
9 drug-free workplace; and

10 (3) assist working parents in keeping their chil-
11 dren drug-free.

12 **SEC. 3. SENSE OF CONGRESS.**

13 It is the sense of Congress that—

14 (1) businesses should adopt drug-free workplace
15 programs; and

16 (2) States should consider incentives to encour-
17 age businesses to adopt drug-free workplace programs.

18 Financial incentives may include—

19 (A) a reduction in workers' compensation
20 premiums;

21 (B) a reduction in unemployment insurance
22 premiums;

23 (C) tax deductions in an amount equal to
24 the amount of expenditures for employee assist-
25 ance programs, treatment, or drug testing.

1 *Other incentives may include adoption of liability*
 2 *limitation as recommended by the President’s Com-*
 3 *mission on Model State Drug Laws.*

4 **SEC. 4. DRUG-FREE WORKPLACE DEMONSTRATION PRO-**
 5 **GRAM.**

6 *The Small Business Act (15 U.S.C. 636 et seq.) is*
 7 *amended by—*

8 (1) *redesignating sections 31 and 32 as sections*
 9 *32 and 33, respectively; and*

10 (2) *inserting the following new section:*

11 **“SEC. 31. DRUG-FREE WORKPLACE DEMONSTRATION PRO-**
 12 **GRAM.**

13 *“(a) ESTABLISHMENT.—There is established a drug-*
 14 *free workplace demonstration program, under which the*
 15 *Administration may make grants, cooperative agreements,*
 16 *or contracts to eligible intermediaries for the purpose of*
 17 *providing financial and technical assistance to small busi-*
 18 *ness concerns seeking to start a drug-free workplace pro-*
 19 *gram.*

20 *“(b) ELIGIBILITY FOR PARTICIPATION.—An inter-*
 21 *mediary shall be eligible to receive a grant, cooperative*
 22 *agreement, or contract under subsection (a) if it meets the*
 23 *following criteria:*

24 (1) *It is an organization described in section*
 25 *501(c)(3) or 501(c)(6) of the Internal Revenue Code*

1 *of 1986 that is exempt from tax under section 5(a) of*
2 *such Act, a program of such organization, or provides*
3 *services to such organization.*

4 “(2) *Its purpose is to develop comprehensive*
5 *drug-free workplace programs or to supply drug-free*
6 *workplace services, or provide other forms of assist-*
7 *ance and services to small businesses.*

8 “(3) *It has at least 2 years of experience in*
9 *drug-free workplace programs or in providing assist-*
10 *ance and services to small business concerns.*

11 “(4) *It has a drug-free workplace policy in effect.*

12 “(c) *REQUIREMENTS FOR PROGRAM.—Any drug-free*
13 *workplace program developed as a result of this section shall*
14 *include—*

15 “(1) *a written policy, including a clear state-*
16 *ment of expectations for workplace behavior, prohibi-*
17 *tions against substances in the workplace, and the*
18 *consequences of violating such expectations and prohi-*
19 *bitions;*

20 “(2) *training for at least 2 hours for employees;*

21 “(3) *additional training for employees who are*
22 *parents;*

23 “(4) *employee drug testing by a drug testing lab-*
24 *oratory certified by the Substance Abuse and Mental*
25 *Health Services Administration, or approved by the*

1 *Department of Health and Human Services under the*
2 *Clinical Laboratories Improvements Act of 1967 (42*
3 *U.S.C. 263a), or the College of American Pathologists,*
4 *and each positive result shall be reviewed by a Li-*
5 *censed Medical Review Officer;*

6 “(5) *employee access to an employee assistance*
7 *program, including assessment, referral, and short-*
8 *term problem resolution; and*

9 “(6) *continuing alcohol and drug abuse preven-*
10 *tion program.*

11 “(d) *EVALUATION AND COORDINATION.—The Small*
12 *Business Administrator, in coordination with the Secretary*
13 *of Labor, the Secretary of Health and Human Services, and*
14 *the Director of the Office of National Drug Control Policy,*
15 *shall evaluate drug-free workplace programs established as*
16 *a result of this section and shall submit a report of findings*
17 *to the Congress not later than 1 year after the date of the*
18 *enactment of this section.*

19 “(e) *ELIGIBLE INTERMEDIARY.—Any eligible inter-*
20 *mediary shall be located in a state, the District of Colum-*
21 *bia, or the territories.*

22 “(f) *DEFINITION OF EMPLOYEE.—For purposes of this*
23 *section, the term ‘employee’ includes—*

24 “(1) *supervisors;*

25 “(2) *managers;*

1 “(3) officers active in management of the busi-
2 ness; and

3 “(4) owners active in management of the busi-
4 ness.

5 “(g) CONSTRUCTION.—Nothing in this section shall be
6 construed to require an employer who attends a program
7 offered by an intermediary to contract for any services of-
8 fered as part of a drug-free workplace program.

9 “(h) AUTHORIZATION.—There are authorized to be ap-
10 propriated to carry out the provisions of this section,
11 \$10,000,000 for fiscal year 1999 and such sums may re-
12 main available until expended.”.

13 **SEC. 5. SMALL BUSINESS DEVELOPMENT CENTERS.**

14 Section 21(c)(3) of the Small Business Act (15 U.S.C.
15 648(c)(3)) is amended—

16 (1) in subparagraph (R) by striking “and”;

17 (2) in subparagraph (S) by striking the period
18 and inserting “; and”; and

19 (3) by inserting after subparagraph (S) the fol-
20 lowing new subparagraph:

21 “(T) providing information and assistance to
22 small business concerns with respect to developing
23 drug-free workplace programs.”.

1 **SEC. 6. CONTRACT AUTHORITY.**

2 *The Small Business Administrator may contract with*
3 *and compensate government and private agencies or per-*
4 *sons for services related to carrying out the provisions of*
5 *this Act.*

6 **SEC. 7. COLLECTION OF DATA AND STUDY.**

7 *(a) COLLECTION AND STUDY.—The Small Business*
8 *Administrator shall collect data and conduct a study on—*

9 *(1) drug use in the workplace among employees*
10 *of small business concerns;*

11 *(2) costs to small business concerns associated*
12 *with illegal drug use by employees; and*

13 *(3) a need for assistance in the small business*
14 *community to develop drug prevention programs.*

15 *(b) REPORT.—Not later than 6 months after the date*
16 *of the enactment of this Act, the Small Business Adminis-*
17 *trator shall submit a report containing findings and con-*
18 *clusions of the study to the chairmen and ranking members*
19 *of the Small Business Committees of the House and Senate.*

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